

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

|                            |   |                                 |
|----------------------------|---|---------------------------------|
| TEXAS IP RESEARCH, LLC,    | § |                                 |
| Relator,                   | § |                                 |
|                            | § |                                 |
| v.                         | § | CIVIL ACTION NO. 5:11-CV-015-DF |
|                            | § |                                 |
| PENTAIR, INC., and PENTAIR | § |                                 |
| WATER POOL AND SPA, INC.,  | § |                                 |
| Defendants,                | § |                                 |

**DEFENDANTS' NOTICE OF CONSTITUTIONAL CHALLENGE**

Pursuant to *Federal Rule of Civil Procedure* 5.1, notice is hereby given that Defendants Pentair, Inc., and Pentair Water, Pool and Spa, Inc. ("Defendants") have challenged the *qui tam* provision in 35 U.S.C. § 292 as violating the Take Care Clause of the United States Constitution. U.S. Const. art. II, § 3.

Defendants raise their challenge in their Motion to Dismiss, filed March 23, 2011, in the above-captioned case. Pursuant to Rule 5.1(a)(2), the undersigned hereby certifies that on March 23, 2011, Defendants' NOTICE OF CONSTITUTIONAL CHALLENGE, and the Defendants' MOTION AND MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION TO DISMISS were served on the U.S. Attorney General by certified mail, return receipt requested, at the following address:

United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dated: March 23, 2011

Respectfully submitted,

/s/ Kristie A. Wright  
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*Counsel for Defendants Pentair, Inc., and  
Pentair Water Pool and Spa, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served this 23<sup>rd</sup> day of March, 2011, with a copy of this NOTICE OF CONSTITUTIONAL CHALLENGE via the Court's CM/ECF system per Local Rule CV-5(A)(3).

I further certify that on the same date true and complete copies of the NOTICE OF CONSTITUTIONAL CHALLENGE and the MOTION AND MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION TO DISMISS were also sent to the United States Attorney General, by means of certified mail.

United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

*/s/ Kristie A. Wright*

Kristie A. Wright

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